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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,135	02/04/2002	Robb Edward Bennett	12929.1070US01	4795
7590	08/12/2004			
EXAMINER				
BUI, THACH H				
ART UNIT		PAPER NUMBER		
3752				

DATE MAILED: 08/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/067,135	BENNETT ET AL.
<b>Examiner</b>	<b>Art Unit</b>	
Thach H Bui	3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on \_\_\_\_.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-43 is/are pending in the application.  
4a) Of the above claim(s) 25-27 is/are withdrawn from consideration.  
5)  Claim(s) 7-12,22-24,28-32 and 38-42 is/are allowed.  
6)  Claim(s) 1-3, 5-6, 13, 16-19 and 43 is/are rejected.  
7)  Claim(s) 4,14,15 and 20 is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a))

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

**DETAILED ACTION**

1. The amendment and response filed June 08, 2004 has been received and entered.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-3, 5-6, 13, 16-18 and 43 are rejected under 35 U.S.C. 102(b) as being anticipated by Doyle (U.S. Patent 5,961,042).

Doyle teaches an apparatus for generating a combustible gas flame above a surface of a liquid comprising a manifold (64) (see Fig. 3) completely disposed within the liquid (see Fig. 1 and 2) (col. 1, lines 57-61) and defining a manifold space at least one aperture (see Fig. 3). The apparatus includes a combustible gas source i.e. a gas tube connected to a combustible gas source (48, 50) configured to deliver combustible gas to the manifold space, wherein the manifold delivers the combustible gas into the liquid through at least one aperture and wherein the combustible gas evolves from the liquid for ignition into the combustible gas flame (see Fig. 2). The apparatus comprises an air source, wherein the air source is configured to deliver air to the manifold space (col. 2, lines 21-28). Doyle teaches a liquid outlet (60) positioned adjacent to the manifold, wherein the liquid outlet is defined by an outer surface of the apparatus, and a

pump (44, 46) configured to deliver a supply of liquid to the liquid outlet, wherein the liquid outlet delivers the supply of liquid into the liquid i.e. a pool of water (22). The apparatus includes an isolation assembly (see Fig. 2) disposed in the liquid i.e. a pool of water, to surround the manifold and isolate the supply of liquid from liquid. The electronic and flame-sensing assembly ignites the combustible gas as it evolves from the liquid and wherein the electronic ignition and flame-sensing assembly senses when the combustible gas flame has extinguished (66, 68, 70 and 74). Methods follow by apparatus.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lin (U.S. Patent No. 6,565,940) in view of Doyle.

Lin teaches an apparatus having a float (104) configured to float on the surface of the liquid, and a manifold disposed on the float and defining a manifold space (20) and at least one aperture (204). The apparatus teaches a liquid source disposed on the float and coupled to the manifold to deliver liquid to the manifold. Lin does not teach a

combustible gas source disposed on the float and coupled to the manifold. Doyle teaches a combustible gas source disposed on the float and coupled to the manifold (48), wherein the combustible gas source delivers combustible gas to the manifold space and wherein the combustible gas is delivered from the manifold for ignition into the combustible gas flame. It would have been obvious to one skilled artisan in the art at the time the invention was made to modify the teachings of Lin and combine with Doyle to have a combustible gas source disposed on the float and coupled to the manifold, wherein the combustible gas source delivers combustible gas to the manifold space and wherein the combustible gas is delivered from the manifold for ignition into the combustible gas flame.

***Allowable Subject Matter***

3. Claims 4, 14-15, 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
4. Claims 7-12, 22-24, 28-32 and 38-42 are allowed.

***Response to Arguments***

5. Applicant's arguments filed June 08, 2004 have been fully considered but they are not persuasive. The Examiner made the rejection based on the written claims. As per claim 1, Doyle (U.S. Patent No. 5,961,042) discloses all features of the invention (as mentioned in the above paragraphs). Applicant recited different features from the

Specification in the remarks; however, these features are not positively recited in the claim(s). In addition, Applicant indicated that claim 5 recited, "disposed in the liquid to surround the manifold and isolate the supply of liquid from the liquid" of which is not taught by Doyle. The Examiner respectfully traverses this remark. Doyle teaches a fire and water display having a manifold disposed in the liquid to surround the manifold and isolate the supply of liquid from the liquid (see Fig. 2).

Applicant's arguments have been addressed in the above paragraphs.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thach H Bui whose telephone number is 703-305-0063. The examiner can normally be reached on Monday-Friday, 7:30-4 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on 703-308-2087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

T.B.  
07/29/2004

  
Gene Marcone  
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